

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/004475

International filing date (day/month/year)
28.04.2004

Priority date (day/month/year)
02.05.2003

International Patent Classification (IPC) or both national classification and IPC
D04B9/38

Applicant
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1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1 bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/004475

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/004475

Box No. II Priority

1. ☒ The following document has not been furnished:
- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
 - ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).
- Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	5,9-16,18,19
	No: Claims	1-4,6-8,17,20-23
Inventive step (IS)	Yes: Claims	9-16,18,19
	No: Claims	5
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Comments concerning section V:

1. The closest prior art is described in GB-A-1 416 179 and GB-A-1 590 750, which will be referred to as D1 and D2, respectively, hereinbelow, describing a circular knitting machine (D1: see page [=p.] 1, lines [=l.] 81 - p.2, l.8; D2: p.1, l.49-67) comprising a footing that supports a needle cylinder (like every circular knitting machine does), said needle cylinder being rotatable about its own axis and oriented substantially vertically, said needle cylinder (D1: 1; D2: 61) having a diameter that is substantially comprised between 7 and 24 inches (like it is customary for knitting legged garments), multiple axial slots (D1: p.5, l.26-29; D2: p.2, l.103-108) being formed on the outer lateral surface of the needle cylinder (D1: 1; D2: 61), each slot accomodating a needle (D1: 6; D2: 63), means (D1: 4, 5; D2: 86, 82) for actuating the needles (D1: 6; D2: 63) being provided which interact with said needles during the rotation of the needle cylinder (D1: 1; D2: 61) about its own axis for the actuation of the needles (D1: 6; D2: 63) along the corresponding axial slot of the needle cylinder (D1: p.5, l.96-102; D2: p.3, l.100-109) so that the needles (D1: 6; D2: 63) form knitting with at least one yarn dispensed to the needles (D1: 6; D2: 63) at at least one drop (D1: 1G, 2G, 3F, 4F; D2: 1C, 2C, 3C, 4C) or feed of the machine, wherein said needle cylinder (D1: 1; D2: 61) can be rotationally actuated abut its own axis in both directions of rotation (D1: p.5, l.59-70; D2: p.1, l.51-52) and in that said needle actuation means (D1: 4, 5; D2: 86, 82) are suitable to allow the needles (D1: 6; D2: 63) to form knitting in both directions of rotation of the needle cylinder (D1: 1; D2: 61) about its own axis at at least one drop (D1: 1G, 2G, 3F, 4F; D2: 1C, 2C, 3C, 4C) or feed of the machine (see D1: Fig.1; D2: Figs.2 to 6).

The subject-matter defined by independent claim 1 would therefore appear not to meet the requirements of Article 33(2) PCT.

2. The features according to the following embodiments of the invention are either known in conjunction with the features mentioned in the independent claims from D1 or D2 or else are suggested for the respective technical purpose by GB-A-1 279 454, which is henceforth referred to as D3.

<u>Claim</u>	<u>Source</u>
2	D1: p.3, l.2-4; D2: p.4, l.35-45;

3	D1: p.2, l.26-29; Fig.1; D2: p.2, l.123-126; Figs.7 and 9;
4	D1: p.5, l.7-17; D2: p.4, l.66-70;
5	D3: p.1, l.55-61;
6	D1: p.5, l.88-96; D2: p.2, l.121-123;
7, 20	D1: p.5, l.26-29; D2: p.3, l.100-109;
8	D1: p.5, l.39-77;
17	D1: p.5, l.83-86; D2: 78;
21	D1: Fig.4; D2: Figs.7 and 9; claim 9;
22, 23	D1: Fig.4;

As a consequence, the subject-matter of these claims would also appear not to meet the requirements of either the Article 33(2) or (3) PCT.

3. The additional features of the embodiments of the invention according to subclaims 9 to 16 and 18, 19 are not reported in the cited prior art for whatever a technical purpose. As a consequence, the subject-matter of these claims would appear to meet the requirements of both the Articles 33(2) and (3) PCT.
4. The subject-matter according to claims 1 to 23 would be susceptible to industrial application and thus meet the requirements of Article 33(4) PCT.

Comments concerning section VII

1. Starting with claim 6, the features mentioned in the claims and denoted by reference signs in the drawings are not accompanied by corresponding reference signs quoted in brackets, contrary to the requirements of Rule 6.2(b) PCT.
2. Contrary to the requirements of Rule 6.3(b) PCT, the independent claims are not correctly cast in the two-part form with respect to the closest prior art (see point V.1. above).
3. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.

Comments concerning section VIII:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2004/004475

1. The expressions "substantially vertically" and "substantially comprised" are vague and indeterminate and render the scope of protection sought by claim 1 unclear, contrary to the requirements of Article 6 PCT, so long the description does not provide clear definitions for these expressions.
2. Referring back to independent claim 1, dependent claims 7 to 16, 18 to 23 are unclear and fail to meet the requirements of Article 6 PCT since various elements referred to in these claims (e.g. "said" active/inactive positions; "said" sub-needle; prongs; pusher; "said" selector actuation cams, "said" first/second rising portions; "said" ... cams/selection devices) have no antecedent in claim 1.